

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: David Roldan
 Kathleen Ann Roldan
 Debtors.

) Case Number: 17-15876
) Chapter 13 Proceedings
) Judge Arthur I. Harris

**TRUSTEE'S MOTION TO DISMISS CASE
FOR FAILURE TO COOPERATE WITH THE TRUSTEE**

Now comes **LAUREN A. HELBLING**, the duly appointed and qualified Standing Chapter 13 Trustee ("Trustee") herein, and hereby moves this Honorable Court to dismiss the case of the Debtor pursuant to Sections 521, 704, 1302 and 1307 of the Bankruptcy Code for failure to cooperate with the Trustee. In support of this motion, the Trustee makes the following representations to the Court:

1. The Confirmation Order filed in this case requires that the Debtor(s) pay over to the Trustee each year all federal tax refunds, subject to certain qualifications. In order to make a determination as to the appropriate amount of funds to be turned over, the Trustee needs to review the Debtor's federal tax return and other documents each year during the pendency of the case.
2. Sections 521(f) and (g) of the Bankruptcy Code mandate that the Debtor(s) file tax returns and a statement or declaration of income annually if so requested by any party in interest.
3. The Trustee sent correspondence to the Debtor(s) and counsel on or about February 3, 2020 to request the 2019 federal tax return and other documents including a Declaration of Income. As of the date of this pleading, the Trustee has not received the tax return (or the tax return received was incomplete) and/or the other documents requested.
4. Section 1307(c) of the Bankruptcy Code states that a Chapter 13 case may be dismissed for "cause." While "cause" is not specifically defined, the Trustee believes that the failure of the Debtor(s) to cooperate, as required by Section 521(a)(3), and failure to respond to the Trustee's request for the 2019 federal tax return and other documents, has left the Trustee unable to fully investigate the financial affairs of the Debtor(s), which the Trustee is required to do by Sections 1302(b)(1) and 704(a)(4) of the Bankruptcy Code. As a result, cause exists under Section 1307(c) of the Bankruptcy Code to dismiss the Debtor's case.

WHEREFORE, your Trustee, being a proper party in interest, hereby moves this Honorable Court to grant her motion and dismiss the case of the Debtor(s) for the reasons cited.

/S/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

200 Public Square, Suite 3860

Cleveland OH 44114-2321

Phone (216) 621-4268

Fax (216) 621-4806

ch13trustee@ch13cleve.com

CERTIFICATE OF SERVICE

I certify that on October 16, 2020 a true and correct copy of this Trustee's Motion to Dismiss Case was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

R.J. Budway, on behalf of Kathleen Ann & David Roldan, Debtors, at attyrjb1@hotmail.com

And by regular U.S. mail, postage prepaid, on:

Kathleen Ann & David Roldan, Debtors, at 413 Berry Ridge Drive, Amherst, OH 44001

/S/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

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